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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/941,096	08/28/2001	Hiroaki Taniguchi	SHC0141	5776

7590 05/31/2006

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EXAMINER	
COLE, ELIZABETH M	

ART UNIT	PAPER NUMBER
1771	

DATE MAILED: 05/31/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/941,096	TANIGUCHI, HIROAKI	
	Examiner	Art Unit	
	Elizabeth M. Cole	1771	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 1-19 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) 1-19 is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 3/8/06 has been entered.

2. Claims 1-2, 4, 9-10, 11, 13, 15, are rejected under 35 U.S.C. 102(b) as being anticipated by McCormack et al, U.S. Patent No. 5,882,769 for the reasons set forth in paragraph 4 of the previous action. With regard to new claims 11, 13 and 15, the bulgy areas of McCormack have the claimed shape. See figures.

3. Claims 9-16, 18 and 19 rejected under 35 U.S.C. 102(b) as being anticipated by Boich, U.S. Patent No. 5,939,178. Boich discloses a sheet comprising an imperforate elastomeric film having a plurality of bulgy regions which are bonded to a fibrous nonwoven layer at the apex of the bulgy regions. See figures 4 and 5 which show the elastomeric sheet 10 and the nonwoven sheet 12 wherein the sheet 10 is bonded to the nonwoven 12 at points 16. The regions of the sheet 12 between the bonding point 16 are substantially flat. See figure 4. When the sheet is under tension as shown in figure 4, the bulgy areas project from the sheet and have a flat back portion. When the sheet is not under tension as shown in figure 5, the bulgy areas comprise opposing curved portions extending away from each other. The bulgy areas are solid. See figures.

4. Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over McCormack et al in view of Thornton et al, U.S. Patent No. 5,244, for the reasons set forth in paragraph 5 of the previous action. It is noted that the citation of Reed in the previous action was an editing error. The rejection does not rely on Reed.

5. Claims 1-8, 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boich, U.S. Patent No. 5,939,178 in view of Thornton et al, U.S. Patent No. 5,244,716. Boich discloses a sheet comprising an imperforate elastomeric film having a plurality of bulgy regions which are bonded to a fibrous nonwoven layer at the apex of the bulgy regions. See figures 4 and 5 which show the elastomeric sheet 10 and the nonwoven sheet 12 wherein the sheet 10 is bonded to the nonwoven 12 at points 16. The regions of the sheet 12 between the bonding point 16 are substantially flat. See figure 4. When the sheet is under tension as shown in figure 4, the bulgy areas project from the sheet and have a flat back portion. When the sheet is not under tension as shown in figure 5, the bulgy areas comprise opposing curved portions extending away from each other. The bulgy areas are solid. See figures. Boich differs from the claimed invention because Boich does not disclose that the film is vapor permeable. Thornton discloses a discontinuously bonded material comprising an imperforate, water vapor permeable, liquid impermeable film layer such as a polyurethane layer and a fabric . The two layers are discontinuously bonded so that the fabric layer will be flat while the film layer is pleated into a plurality of parallel pleats. See figure 3a where 105 refers to the film and 100 refers to the fabric. The parallel pleats correspond to the claimed structure of uniformly spaced bulgy zones. The film may comprise a polyurethane material and may

have a WVTR which would meet the claimed limitations. See col. 13, lines 19-38. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have employed a polyurethane film having the claimed WVTR as taught by Thornton. One of ordinary skill in the art would have been motivated to employ the vapor permeable sheets of Thornton because Thornton teaches that such film are suitable for use in laminates comprising film layers and fabric layers in order to improve the comfort of users of articles comprising the laminate.

6. Applicant's arguments filed 3/8/06 have been fully considered but they are not persuasive. Applicant argues that the claims require substantially flat zones between the bulgy structural zones and bonding between the film and the fibrous sheet at and along the bulgy zones. However, the claims do not require that the bonding be at the apex of the bulgy zones which is what applicant seems to be claiming. Bonding in McCormack is along and at the bulgy zones because it is adjacent to the bulgy zones and is at every bulgy zone. Therefore there is bonding at and along the bulgy zones. If Applicant intends to claim that the bonding is at the apex of the bulgy zones then that needs to be recited in the claims. Also, the bulgy zones in McCormack do have the flat zones between the bulgy zones as shown in the figures.

7. Applicant argues that the bulgy structures in Boich do not extend continuously and in parallel. However, looking at figure 5 the bulges are continuous and parallel. Also, Boich teaches applying the adhesive in a predetermined pattern. Therefore, the rejection is maintained.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Elizabeth M. Cole whose telephone number is (571) 272-1475. The examiner may be reached between 6:30 AM and 6:00 PM Monday through Wednesday, and 6:30 AM and 2 PM on Thursday.

Mr. Terrel Morris, the examiner's supervisor, may be reached at (571) 272-1478.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

The fax number for all official faxes is (571) 273-8300.

Elizabeth M. Cole
Primary Examiner
Art Unit 1771

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